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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 MICHAEL DEAN ADKISSON,

11 Petitioner,

12 vs.

13 D.W. NEVEN, *et al.*,

14 Respondents.  
15  
16

Case No. 2:14-cv-01934-APG-CWH

**ORDER**

17 This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

18 On April 13, 2015, this court granted a stay and administratively closed petitioner's federal  
19 habeas corpus action so that he could exhaust certain grounds in his petition (Dkt. #7).

20 Petitioner's further state-court proceedings have concluded, and petitioner has now returned to  
21 this court seeking to reopen this case and the appointment of counsel (Dkt. #s 9, 10, 11).<sup>1</sup> Good cause  
22 appearing, this action is reopened.

23 With respect to the appointment of counsel, there is no constitutional right to appointed counsel  
24 for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v.*  
25 *Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary.  
26

27 <sup>1</sup> Petitioner filed one document that he styled motion to lift stay, reopen case and renewed  
28 motion for appointment of counsel, which was docketed as three motions (Dkt. #s 9, 10, 11). The  
court shall refer to the motion as Dkt. #9.

1 *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v.*  
2 *Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be  
3 appointed if the complexities of the case are such that denial of counsel would amount to a denial of  
4 due process, and where the petitioner is a person of such limited education as to be incapable of fairly  
5 presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th  
6 Cir. 1970). Here, it appears that the claims may be somewhat complex. Additionally, petitioner is  
7 serving two consecutive life sentences without the possibility of parole. Accordingly, petitioner's  
8 motion for appointment of counsel is granted.

9 **IT IS THEREFORE ORDERED** that petitioner's motion to lift stay, reopen this action and  
10 renewed motion for counsel (Dkt. #s 9, 10, 11) is **GRANTED**.

11 **IT IS FURTHER ORDERED** that, as the stay is lifted by this order, the Clerk shall **REOPEN**  
12 **THE FILE** in this action.

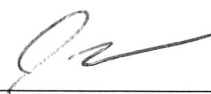
13 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of Nevada  
14 ("FPD") is appointed to represent petitioner.

15 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the FPD  
16 a copy of this order, together with a copy of the petition for writ of habeas corpus (Dkt. #8). The FPD  
17 shall have thirty (30) days from the date of entry of this order to file a notice of appearance or to indicate  
18 to the court its inability to represent petitioner in these proceedings.

19 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case, the  
20 court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first  
21 amended petition.

22 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** a copy of  
23 this order, together with a copy of the petition for writ of habeas corpus (Dkt. #8), on respondents.  
24 Respondents need take no action until further order by this court.

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26 Dated this 29<sup>th</sup> day of May, 2015.



27  
28 UNITED STATES DISTRICT JUDGE